(1)

Supreme Court, U.S.
FILED

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NO.

IN THE

SUPREME COURT OF THE UNITED STATES

JEAN ROSENBAUM,
Petitioner, acting Pro Se,

v.

KURT ROSENBAUM
Respondent.

ON PETITION FOR WRIT OF CERTIORARI
To The Appellate Court Of Illinois,
First District.

PETITION FOR WRIT OF CERTIORARI

Jean Rosenbaum, Pro Se
1122 West Lunt Avenue
Chicago, Illinois 60626
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45pp

QUESTIONS PRESENTED

FOR REVIEW

Introductory Statement

A Judgment of Dissolution of Marriage was signed by Judge Daniel Ryan of the Domestic Relations Division of the Circuit Court of Cook County, Illinois, in December, 1983. Petitioner, JEAN, has been told he was the victim of a stroke and died shortly thereafter. He himself informed her he could not see or read properly. The confused Judgment was signed over JEAN's strenuous objections, and is carelessly written, but the lower Courts have refused to alter or void it, despite JEAN's many attempts. Respondent, KURT, had lost two prior divorce proceedings filed against JEAN. KURT is 86 years, Jean, 78.

The questions are:

1. Is JEAN Constitutionally entitled to have State and Federal law and statutes applied to her equally like all other citizens, including law involving res judicata and related principles?

2. Is a "divorced wife" entitled to have the property rights of the three young adult children of the couple established in the decree of divorce clarified, clearly defined and enforced in all respects?

3. Does a "divorced wife" have a right to privacy regarding her income tax return(s), despite a need to have the Judgment of Dissolution properly enforced?

4. Does an Appellate Court have jurisdiction to act beyond the limitations set by the laws and/or statutes of the State or Federal government?

PARTIES TO THE PROCEEDING

1. The names of all parties to the proceeding appear in the caption of the case on the cover page.

2. However, in the Courts below the listings were:

a) Trial Court: KURT was Petitioner, and JEAN the Respondent, acting Pro Se.

b) Appellate Court: KURT was Appellee, and JEAN the Appellant, acting Pro Se.

c) Illinois Supreme Court: KURT was Respondent, and JEAN, who filed the Petition for Appeal, was Petitioner, acting Pro Se.

TABLE OF CONTENTS

Page(s)

Questions Presented for Review.....i

Parties to the Proceeding.....ii

Table of Contents.....iii-iv

Table of Authorities.....v-vi

Opinions Below.....1

Jurisdiction.....1-2

Constitutional and Statutory Provisions Involved.....2-3-4

Statement of the Case.....5-6-7

Reasons for Granting the Writ with Argument.....8-9-10-11

Conclusion.....12

Petitioner's Affidavit.....13

INDEX TO APPENDICES

APPENDIX A(1) through A(6):
Appellate Court of Illinois Amended Order Upon Denial of Petition for Rehearing, 5/28/99 Nunc Pro Tunc 3/31/99

APPENDIX B:
Circuit Court of Cook County Illinois Order
Allowing Motion to Satisfy Judgment, 11/19/97

APPENDIX C(1) through C(2):
Circuit Court of Cook County Order
Denying Motion to Clarify and Update
Judgment of Dissolution, 1/29/97

APPENDIX D:
Supreme Court of Illinois Order Denying
Petition for Appeal, 10/6/99

APPENDIX E:
Supreme Court of Illinois Order Denying
Leave to File Motion for Reconsideration
of Denial of Petition for Appeal, 11/12/99

APPENDIX F:
Appellate Court of Illinois Order Denying
Petition for Rehearing, 5/28/99

APPENDIX G:
Appellate Court of Illinois Order Denying
Motion for Reconsideration of Order Denying
Appellant's Petition for Rehearing: This is
because of Newly Located Additional Evidence, 6/2/99

APPENDIX H(1) through H(11):
Pertinent Excerpts from Judgment of Dissolution
of Marriage Entered December 1983

APPENDIX I:
Pertinent excerpts from Appellate Court of
Illinois Opinion, Rosenbaum v. Rosenbaum
(First Dist. 1976), 38 Ill. App. 3d 1, 349 N. E. 2d 73

TABLE OF AUTHORITIES

Page(s)

Federal Cases

United States v. Mendoza (1984), 104 S.Ct. 568, 464 U.S. 154, 78 L.Ed. 2d 379, (On remand, 737 F. 2d 824).....11

World Wide Volkswagen Corp. v. Woodson (1980), 100 S.Ct. 559, 444 U.S. 286, 62 L. Ed. 2d 490.....9

Illinois Cases

In re A. A.; a Minor (The Dept. of Children and Family Services) v. People of Illinois (1998), 181 Ill. 2d 32, 690 N.E. 2d 980.....9

In re Marriage of Leopando (1983) 96 Ill. 2d 114, 449 N.E. 2d 137.....6,10

Rosenbaum v. Rosenbaum (First Dist. 1976) 38 Ill. App. 3d 1, 349 N.E. 2d 73.....5

R. W. Sawant & Co. v. Allied Programs Corp. (1986), 111 Ill. 2d 304, 489 N.E. 2d 1360.....11

Statutes

28 U.S.C. S 1257 (a).....2

Ill. Comp. Stat. (1996), 735 ILCS 5/2-1401(a)(c) 4,10

United States Constitution:

Amendment V.....2,6,7,9,10
Amendment XIV.....3,6,7,9,10

Illinois Constitution:

Article I, Section 2.....3,6,7,9,10

PETITION FOR WRIT OF CERTIORARI

Petitioner, JEAN ROSENBAUM, acting Pro Se, respectfully prays that the Supreme Court of United States issue a Writ of Certiorari to review the AMENDED ORDER UPON DENIAL OF PETITION FOR REHEARING, which was the final Order entered by the Appellate Court of Illinois, First District, Fifth Division. It was entered May 28, 1999, Nunc Pro Tunc March 31, 1999. The final Order denied all issues presented by JEAN, among which was a plea to clarify and update the JUDGMENT OF DISSOLUTION OF MARRIAGE entered in December, 1983, which JEAN has asserted, is not yet final according to applicable Illinois law.

The JUDGMENT OF DISSOLUTION, stamped "Entered December 16, 1983," was not filed until December 19, 1983, and December 19 is considered to be its official entry date.

No official Opinion was entered in this case, and to best of knowledge the final Order appears in no publication.

BASIS FOR JURISDICTION IN THIS COURT

The AMENDED ORDER UPON DENIAL OF PETITION FOR REHEARING was entered May 28, 1999, NUNC PRO TUNC March 31, 1999, APPENDIX A (1) through A (6).

The PETITION FOR REHEARING timely-filed by JEAN was denied on May 28, 1999, APPENDIX F.

A MOTION FOR RECONSIDERATION OF ORDER DENYING APPELLANT'S PETITION FOR REHEARING; THIS IS BECAUSE OF NEWLY LOCATED ADDITIONAL EVIDENCE, was filed June 7, 1999, and denied on June 29, 1999, APPENDIX G.

A PETITION FOR APPEAL AS A MATTER OF RIGHT, Or in the alternative, PETITION FOR LEAVE TO APPEAL, was mailed for filing to the Illinois Supreme Court on July 27, 1999, officially filed on July 29, 1999, and denied on October 6, 1999, APPENDIX D. As that Court's Rules do not allow a Petition for Rehearing from the denial of a Petition for Appeal, on October 26, 1999, JEAN filed in the Illinois Supreme Court a MOTION FOR LEAVE TO FILE A MOTION FOR RECONSIDERATION OF DENIAL OF PETITION FOR APPEAL AS A MATTER OF RIGHT, Or in the Alternative, PETITION FOR LEAVE TO APPEAL, and included the Motion for Reconsideration. The Motion for Leave to File was denied on November 12, 1999, APPENDIX E.

At time of writing, no extension of time has been requested to file the Petition for Writ of Certiorari, and none is anticipated.

The statutory provision believed to confer on this court jurisdiction to review on certiorari the judgment in question is 28 U.S.C. §1257(a). Rules 29.4(b)(c) are not applicable.

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

The Constitutional provisions involved are: United States Constitution: Amendment V and Amendment XIV. State of Illinois Constitution: Article I, Section 2.

United States Constitution, Amendment V

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same

offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use, without just compensation."

United States Constitution,
Amendment XIV

"Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of the liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws."

Sections 2, 3 and 4 of Amendment XIV not applicable to the case.

"Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article."

ILLINOIS CONSTITUTION
ARTICLE I, SECTION 2

"No person shall be deprived of life, liberty or property without due process of law nor be denied the equal protection of the laws."

ILL. COMP. STAT. (1996)
735 ILCS 5/2-1401

S2-1401(a) Relief from final orders and judgments after 30 days from the entry thereof, may be had upon petition as provided in this section

Paragraph (b) omitted.

(c) The petition must be filed not later than 2 years after entry of the order or judgment.

STATEMENT OF THE CASE

June 27, 1999, was the 51st wedding anniversary of JEAN and KURT, who have three children of their own past 40 years of age, and one grandchild -- more can ensue. JEAN at age 78, has impaired legs and can barely walk. KURT is 86. After a deeply-troubled business period, he unsuccessfully filed two prior divorce suits against JEAN on grounds of mental cruelty. The third suit, filed by his new attorney, BERMAN, before all issues of the second suit were finalized, was allowed in December 1983, by Judge Daniel Ryan shortly prior to his death, and his decision overturn's the Appellate Court's OPINION in Rosenbaum v. Rosenbaum (First Dist. 1976), 38 Ill. App. 3d 1, 13, 349 N.E. 2d 73, that stated KURT could not prove his lack of provocation from 1965 to 1976, APPENDIX I, violating all res judicata and related principles.

The JUDGMENT OF DISSOLUTION deemed marital property amounting to $192,000 to belong to the three then-young adult children, APPENDIX H(3) through H(7); H(8) through H(10). The Judgment does not clearly specify what portion of property belongs to the children, when KURT owns part of it, and, also does not say when the children are to receive their share of jointly-owned property that has been deemed to belong to them.

JEAN provided evidence to Appellate Court that in the first appeal, No. 84-0489, these irregularities were submitted for adjudication, but NEVER RULED ON. This evidence was in her MOTION FOR RECONSIDERATION OF ORDER DENYING APPELLANT'S PETITION FOR REHEARING; THIS IS BECAUSE OF NEWLY LOCATED ADDITIONAL EVIDENCE, which that Court denied, APPENDIX G. In other appeals of the cause, she also submitted all unresolved issues for adjudication, but the motions were always denied. In October 1997, JEAN filed a MOTION TO CLARIFY AND

UPDATE JUDGMENT OF DISSOLUTION OF MARRIAGE ENTERED DECEMBER 1983, which was denied by trial court; this was affirmed by Appellate Court.

JEAN has never received a complete copy of the $15,000 insurance policy or policies naming her as irrevocable beneficiary, ordered in the JUDGMENT OF DISSOLUTION, but only piecemeal copies with flaws, APPENDIX H(11). In February 1990, trial court required KURT to deliver to her by March 1, 1990, a complete copy, which she never received. When she complained to trial court, BERMAN suggested KURT be permitted to pay JEAN $15,000 cash now, in lieu thereof. She objected, as it might change her income tax picture to her detriment, etc., in the year it was reported, but the Court allowed his request. The money presently lies in a Court-controlled bank account.

JEAN has consistently claimed that the JUDGMENT OF DISSOLUTION is not yet final as all ancillary issues have not been resolved. An order which leaves a cause still pending an undecided is not a final order, In re Marriage of Leopando (1983), 96 Ill. 2d 114, 119, 449 N.E. 2d 137. Appellate Court has never entered an on-point decision on this subject, or the res judicata issue. Its AMENDED ORDER claims it previously decided the issue, but upon research its claims were found to be invalid.

Review of a state-court (Illinois) judgment is sought. In trial court, the Federal and State Constitutional questions sought to be reviewed were first raised by JEAN in a MOTION TO TRANSFER TO CALENDAR 43 (OR 41), OR AS A LESSER ALTERNATIVE, FOR HEARING DATE ON MATTERS OUTSTANDING, filed May 22, 1997, in which violation of the United States Constitution, Amendments V and XIV, and violation of the Illinois Constitution's due process and equal protection of law clause, Article I, Section 2, were

cited. Because of her belief of the non-finality of Judgment, transfer to the regular Domestic Relations Court from the Post-Decree Court, to which it was assigned by Computer, was asked. The motion was denied, but at a much later date, the case was transferred to the regular Domestic Relations Court for rulings on another issue. The Constitutional questions were also raised in the timely-filed Notice of Appeal, page 2, filed in trial court on June 18, 1998, and then relayed to the Appellate Court.

In the Appellate Court (Appeal 98-2171), the same Constitutional clauses were introduced in JEAN's Appellate Brief, page 17, where she argued that the parties' three children were denied due process and equal protection of law, as they were deprived of their property by the Judgment of Dissolution. In her Appellate Petition for Rehearing, page 8, again the identical clauses were cited to substantiate the allegation that her res judicata rights were violated, an issue entered in earlier documents and appeals, but never ruled on by Appellate Court in an on-point decision. Appellate Court, in Appeal 98-2171, did not rule on the Constitutional and Federal issues (APPENDIX A(1) through A(6)).

JEAN's PETITION FOR APPEAL AS A MATTER OF RIGHT, Or in the alternative, PETITION FOR LEAVE TO APPEAL, timely-filed in the Illinois Supreme Court on July 29, 1999, was denied, APPENDIX D. That document, Petition No. 87722, cited violation of the United States Constitution, Amendments V and XIV, and of the Illinois Constitution, Article I, Section 2, on pages 11, 14 and 16.

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NOTE: The JUDGMENT OF DISSOLUTION OF MARRIAGE is 20 pages long. In the interest of brevity and carrying weight, only the pages involving the financial awards

to the children and KURT are included in the APPENDIX. A certified copy of the complete 20 page document is included in the filing package for the convenience of this Court.

ARGUMENT

a) The confused, contradictory JUDGMENT OF DISSOLUTION OF MARRIAGE, awards certain Rosenbaum property totaling $192,000 to the three Rosenbaum children, saying (APPENDIX H(3 - 7)):

> "Property owned by the children or in which they are beneficial owners, includes the following:"

The JUDGMENT OF DISSOLUTION then says (APPENDIX H(7):

> "Those assets being held by petitioner as custodian for the children are deemed to be assets of the children and not the petitioner."

The JUDGMENT next says (APPENDIX H(8):

> "That petitioner, KURT ROSENBAUM, is hereby assigned and awarded the following as his separate, non-marital property having the approximate evaluations indicated, all of which property is in the name of petitioner solely or with on or more of the children of the parties, and is awarded all right title and interest therein:"

The identical property previously awarded to the children is then awarded to KURT, who is given all right, title and interest therein.

The last paragraph of the JUDGMENT OF DISSOLUTION (APPENDIX H(11) says:

"That this court retains continuing jurisdiction of the parties hereto and the subject matter hereof for purposes of enforcing the provisions of this Judgment."

Despite the foregoing last paragraph, trial court has denied all of JEAN's attempts to clarify the property division and update the Judgment of Dissolution, and its decisions have been affirmed by Appellate Court. The same courts have denied, also, all attempts to void the JUDGMENT. The Illinois Supreme Court has never accepted JEAN's petitions for Appeal, and the entire subject appears to bear a remarkable resemblance to FRAUD.

In its present state, it is impossible to understand how trial court could possibly enforce the contradictory JUDGMENT regarding the awards to the children. It defies all due process and equal protection of law principles as set forth in the United States Constitution, Amendments V and XIV, and in the Illinois Constitution, Article I, Section 2. Judgment rendered in violation of due process is void in rendering state, and is not entitled to full faith and credit elsewhere, World-Wide Volkswagen Corp. v. Woodson (1980), 100 S. Ct. 559, 564, 444 U.S. 286, 62 L.Ed. 2d 490.

"Equal protection analysis is the same under the United States Constitution and the Illinois Constitution .... Government must treat similarly situated persons in a similar manner." In re A.A.: a Minor (The Dept. of Children and Family Services v. People of the State of Illinois (1998), 181 Ill. 2d 32, 37, 690 N.E. 2d 980. JEAN, as a member of KURT's family (even if divorced, she is the Mother of his children), received a lump sum award and monthly maintenance, which was reduced after 4 years. The three children, also family members, received awards totaling $192,000, which they have not received. It is essential to treat them equally, give them their financial awards

now, and enforce their right to due process and equal protection of law.

b) Trial court entered an Order relieving KURT from providing JEAN with an irrevocable insurance policy in his name with her as beneficiary, if he gave her $15,000 in cash now. This was without requiring him to file a Section 2-1401 Petition as made mandatory by Illinois statute (this petition, pages 3 - 4), although it was 14 years later. JEAN objected for this and income tax reasons, and the Court entered an order requiring KURT to reimburse her for any additional income tax she might have to pay because of the payment. (Ill. Comp. Stat. (1996), 735 ILCS 2-1401.) BERMAN said he would have to see her income tax return before any repayment. JEAN objected on this ground, too, as she considers her income tax return a private matter, and this is substantiated by the Internal Revenue Service rules; she should not have to reveal her income to the opposition to enforce a compromise she did not even want and fought, APPENDIX B.

c) The Appellate final Order proclaims finality of Judgment, but JEAN disagrees. With all the unresolved issues still outstanding, there can be no finality under Illinois law. An Order which leaves a cause still pending and undecided is not a final order, In re Marriage of Leopando (1983), 96 Ill. 2d 114, 119, 449 N.E. 2d 137.

d) The JUDGMENT OF DISSOLUTION deprives JEAN of her due process and equal protection of law rights under Federal and State Constitutions, and the right to application of res judicata principles, when refusing to recognize that the Appellate Court earlier ruled that KURT exhibited provocation from 1965 to 1976, and was not entitled to a divorce. However, in contradiction, the JUDGMENT OF DISSOLUTION says KURT was without fault and provocation when leaving the family home in 1965,

APPENDIX H(2). "Under res judicata, a final judgment on the merits bars further claims by parties or their privies on the same cause of action," United States v. Mendoza (1984), 104 S.Ct. 568, 571, 464 U.S. 154, 78 L.Ed. 2d 379 (On remand 737 F. 2d 824).

REASONS FOR GRANTING THE WRIT with ARGUMENT.

This PETITION FOR WRIT OF CERTIORARI should be granted, not only because it is of national importance to uphold and protect the law, integrity of the Courts, and Constitutional rights of all citizens, but also to protect the countless number of children of divorced parents. Divorce is easy and prevalent these days, and reports have reached JEAN's ears of older children sleeping on public sidewalks with blankets, because their rights have not been properly enforced. It can be seen from this instant Rosenbaum case, opposing lawyers and some Judges do not hesitate to ignore the law. Automation is becoming increasingly prevalent and education more costly; it is impossible to predict how long suitable jobs will be available for these children. Our society must be protected from these ravages.

The creation of "new law" by the Illinois courts that is contrary to the law of the United States expressed in the Mendoza decision is repugnant to the United States Constitution.

"A judgment of a court which lacks authority to make the order is void, and may be attacked at any time," R. W. Sawant & Co. v. Allied Programs Corp. (1986), 111 Ill. 2d 304, 309, 489 N.E. 2d, 1360.

WHEREFORE, it is prayed that this PETITION FOR WRIT OF CERTIORARI be granted.

Respectfully submitted,

Jean Rosenbaum

JEAN ROSENBAUM, Petitioner,
acting Pro Se.

DATED: January 3, 2000

Jean Rosenbaum, acting Pro Se
1122 West Lunt Avenue
Chicago, Illinois 60622
973-6047 (773)

STATE OF ILLINOIS)
)
COUNTY OF COOK)

AFFIDAVIT

I, JEAN ROSENBAUM, being first duly sworn upon oath, depose and state I am the Petitioner, acting Pro Se in the aforestated cause, that I have read the foregoing PETITION FOR WRIT OF CERTIORARI and its APPENDIX following, by me subscribed, that I know the contents thereof, and the same are true in substance and in fact.

Jean Rosenbaum
JEAN ROSENBAUM, Petitioner,
Acting Pro Se

Subscribed and sworn to before me, a Notary Public of the State of Illinois, County of Cook, this 3rd day of January, 2020.

Notary Public

Jean Rosenbaum, acting Pro Se
1122 West Lunt Avenue
Chicago, Illinois 60626
973-6047 (773)

FIFTH DIVISION
May 28, 1999
NUNC PRO TUNC March 31, 1999.
1-98-2171

IN THE APPELLATE COURT OF ILLINOIS

FIRST JUDICIAL DISTRICT

In re MARRIAGE OF	)	Appeal from the
	)	Circuit Court of
KURT ROSENBAUM,	)	Cook County.
	)	
Petitioner-Appellee,	)	No. 81 D 22050.
	)	
and	)	Honorable
	)	James J. Gavin,
JEAN ROSENBAUM,	)	Judge Presiding.
	)	
Respondent-Appellant.	)	COPY

AMENDED ORDER UPON DENIAL OF

PETITION FOR REHEARING.

Respondent, Jean Rosenbaum, appeals Pro Se, from the denial of her petition under Section 2-1401 of the Code of Civil Procedure (735 ILCS 5/2-1401 (West 1996)), to "clarify and update" the judgement of dissolution of her marriage to petitioner Kurt Rosenbaum, and from the circuit court's grant

of petitioner's motion to satisfy a specific provision in the judgement of dissolution.

The judgement of dissolution of the parties' marriage was entered on December 16, 1983, and subsequently affirmed by this court. In re Marriage of Rosenbaum, No. 1-84-0489 (1985) (unpublished order under Supreme Court Rule 23). The present appeal is the nineteenth appeal stemming from the divorce decree. The history of litigation stemming from and prior to the judgement of dissolution can be found in earlier orders and will not be repeated here except as relevant. See modified order entered in consolidated cases In re Marriage of Rosenbaum, Nos. 89-1152, 89-2068, 90-0536 & 90-1911 (1991) (unpublished order under Supreme Court Rule 23). We note that both the circuit court and this court have sanctioned respondent a number of times. Previous sanctions include a $10,000 fine against respondent, entered by Judge Michele Lowrance on January 12, 1996. The enforcement of said fine has been staved until respondent is found to have engaged in conduct considered to be frivolous, in bad faith, or for such improper purposes as delay, harassment and the causing of needless expense to petitioner and the courts.

Under paragraph F, on page 19 of the dissolution order, petitioner was required to maintain $15,000 of life insurance, designating respondent as the irrevocable beneficiary. Petitioner was further required to pay all premiums for the policies and exhibit proof of payment to respondent on an annual basis. In September 1997, petitioner filed a motion to satisfy judgement regarding the above provision, stating that because enforcement of the provision had been the subject of a number of motions by respondent and extensive correspondence between the parties over the past six or seven years, he wished to tender $15,000 to respondent in open court in order to satisfy the provision. It appears from the record that although respondent had at various times been provided with a

copy of the policy, she had never been satisfied with petitioner's compliance with the provision. For example, she suggested, among other things, that the policy he had procured would not be payable in the event he committed suicide. At one point, petitioner had prepaid the policy premiums and attempted to give the entire policy to respondent. Respondent apparently refused to accept the policy. Respondent moved to strike petitioner's motion to satisfy judgement, arguing that it was insufficient at law because it failed to comply with section 2-1401 of the Code of Civil Procedure. 735 ILCS 5/2-1401 (West 1996).

In October 1997, respondent filed a section 2-1401 petition to "clarify and update" the judgment for dissolution entered in 1983. Respondent alleged that the judgment for dissolution was not final because petitioner had never satisfied the provision regarding life insurance despite her "many attempts" to resolve the issue, and claimed that she had never been able to secure an adjudication from any court as to whether the judgment was void. She also submitted that the judgement required clarification and updating because it contradicted a prior appellate court decision (Rosenbaum v. Rosenbaum, 38 Ill. App. 3d 1 (1976) (reversing judgment granting petitioner a divorce from respondent), and failed to state when the couple's children were to receive certain financial awards. Finally, respondent's petition requested financial information relating to petitioner's pension, so that "a proper financial adjudication regarding the family" could be made, and requested financial information relating to the sale of an optometry practice and apartment previously owned by petitioner, so that respondent could "verify or dispute the Judgement for Dissolution."

On November 19, 1997, after hearing the arguments of the parties, the circuit court entered an order granting petitioner's motion to satisfy the judgment regarding the life insurance provision by paying respondent $15,000. In response to

respondent's concerns that the partial satisfaction of the judgment in the manner suggested by petitioner would subject her to additional income tax liability, the order provided that petitioner would indemnify and hold respondent harmless for any income tax liability resulting from the payment. Respondent subsequently filed a motion to vacate the court's November 19 order, contending, inter alia, that "modification" of the dissolution decree required petitioner to file a section 2-1401 petition and that receiving $15,000 immediately rather than upon the death of the petitioner could have adverse consequences for her in the future.

Following a hearing, the circuit court denied both respondent's motion to clarify and update the judgment of dissolution and her motion to vacate the court's November 19, 1997, Order.

On appeal, respondent maintains that petitioner's motion to satisfy judgement was required to be filed as a section 2-1401 motion and the circuit court therefore had no jurisdiction to grant the motion. We interpret the court's action in this cause as enforcement of the judgement of dissolution rather than a modification. It has long been accepted that Illinois courts retain continuing jurisdiction to enforce their own orders. See Waggoner v. Waggoner, 78 Ill. 2d 50, 53 (1979); In re Marriage of Fairchild, 110 Ill. App. 3d 470, 475-76 (1982). Further, the final provision of the divorce decree in the instant cause states that the court retains continuing jurisdiction of the parties and subject matter for purposes of enforcing the provisions of the judgement.

Respondent next maintains that requiring her to accept $15,000 in satisfaction of the life insurance provision of the judgement of dissolution was "unfair". Respondent acknowledged that she had attempted to enforce this particular provision a number of times. The Record reflects that

petitioner had attempted to comply with the life insurance provision on past occasions but respondent had always found some fault with his efforts. Petitioner, frustrated with the ongoing controversy over enforcement of the life insurance provision, then requested leave to satisfy the judgement through a method that, on its face, favored respondent by giving her $15,000 cash immediately, as opposed to having to wait for petitioner's death before receiving the same amount. Her concerns regarding potential income tax liability were addressed in the court's order that petitioner indemnify her for any additional income tax caused by her acceptance of the $15,000. Respondent's other protestations, including the potential impact of the payment on her eligibility in the future for "charitable aids" for housing, or any other "senior citizen aid", are purely speculative. Respondent's contentions pale in comparison to the court's interest in lending some finality to a provision that has been the subject of great contention between the parties. Respondent's argument that she is entitled to any "natural increases" in the policy was not raised in the proceedings below and is therefore waived. See Village of Evergreen Park v. Commonwealth Edison Co., 296 Ill. App. 3d 810, 816 (1998). We find that the circuit court had jurisdiction and discretion to enforce the provision through the method suggested by petitioner and that the partial satisfaction of judgment ordered by the court below was not "unfair" to respondent.

Respondent also maintains that the circuit court erred in denying her section 2-1401 petition to clarify and update the judgment of dissolution. Respondent contends that she could not have filed her petition within the two year period following entry of the judgment of dissolution, as required by section 2-1401, because she did not believe that the judgment of dissolution was final. Initially, we note that this belief has not stopped respondent from filing other, earlier section 2-1401 Petitions. See In re Marriage of Rosenbaum, No. 1-92-3948

(1994) (unpublished order under Supreme Court Rule 23). Further, respondent's "belief" that the judgment of dissolution was not final is of no merit in light of the fact that this court has ruled a number of times that the judgment of dissolution order was final and has informed respondent that she has no remaining grounds on which to contest the judgement.
See In re Marriage of Rosenbaum, No. 1-93-3777, p. 6 (1995) (unpublished order under Supreme Court Rule 23); In re Marriage of Rosenbaum, No. 1-92-3948, p. 19 (1994) (unpublished order under Supreme Court Rule 23). In the face of our previous rulings, respondent's subjective belief as to the status of the judgment is no longer relevant. Finally, the majority of issues raised in the petition have also been raised in earlier proceedings before this court. The judgment of dissolution says what it says and 15 years and 19 appeals later, there is nothing to clarify, verify or update. The circuit court did not abuse its discretion in denying respondent's section 2-1401 petition.

Petitioner has requested that this court impose sanctions on respondent for pursuing yet another "meritless" appeal. We decline to impose sanctions in this particular instance. The orders of the circuit court of Cook County are affirmed.

Affirmed.

HARTMAN, J., with HOURIHANE, P.J., and THEIS, J., concurring.

(NOTE: Although the names of the Appellate Court Justices appear on the Appellate Court's Amended Order, the Order is NOT signed. This Amended Order was entered in response to JEAN's timely-filed Petition for Rehearing, and the names of the Justices are only typed in.)

IN THE CIRCUIT COURT OF COOK COUNTY,

ILLINOIS

KURT ROSENBAUM, Petitioner,) C O P Y
)
v.) NO.
)
JEAN ROSENBAUM, Respondent.) 81 D 22050

O R D E R

This cause coming on for hearing on motions of Petitioner and Respondent for sanctions, Petitioners motion to satisfy judgment, Paragraph F, page 19, and all responses thereto, the court having heard arguments and been fully advised;

IT IS ORDERED that Petitioner's Motion to Satisfy Judgement, per page 19, re $15,000 life insurance is granted, and Petitioner shall pay $15,000 in satisfaction on January 29, 1998, at 11:00 AM, and Petitioner shall indemnify and hold Respondent harmless for any income tax liability resulting from the payment. All other motions pending are continued to January 29, 1998 at 11:30 AM for further proceedings. Petitioner shall pay any additional tax Respondent may be required to pay.

"s/Francis J. Gembala
Judge

ENTERED: November 19, 1997

APPENDIX B

IN THE CIRCUIT COURT OF COOK COUNTY,

ILLINOIS

KURT ROSENBAUM, Petitioner,) C O P Y
)
v.) NO.
)
JEAN ROSENBAUM, Respondent.) 81 D 22050

O R D E R

This cause coming on upon the motion of Respondent to vacate the order of November 19, 1997, objections thereto and Respondent's Reply, and on Petitioner's motion for sanctions filed September 30, 1997, and Respondent's Answer thereto, and Respondent's section 2-1401 Petition to Clarify and Update Judgement filed October 21, 1997, and Petitioner's objection and Respondent's Reply, and the court having heard arguments and been fully advised;

IT IS ORDERED:

1. Respondent's Motion to Vacate the order of November 19, 1997, is denied and Petitioner shall pay the $15,000 by February 13, 1998.

2. Respondent's motion of 10/21/97 to clarify and update the judgment is denied.

3. Petitioner's motion for sanctions is continued to July 28, 1998 at 9:30 AM.

4. Respondent is ordered to file no further pleadings in this cause until and unless approved in advance by the court, except an appeal notice for this order.

DATED: 1/29/97

"s/ JAMES J. GAVIN"
Judge

Edward A. Berman, P.C.

Attorney for Petitioner

2 North La Salle Street

Chicago, Illinois 60603

APPENDIX C(2)

SUPREME COURT OF ILLINOIS

Clerk of the Court

Supreme Court Building

Springfield, Illinois 62701

(217) 782-2035

October 6, 1999

Ms. Jean Rosenbaum
1122 West Lunt Avenue
Chicago, IL 60626

COPY

No. 87722-Kurt Rosenbaum, respondent, v. Jean Rosenbaum, petitioner, Leave to Appeal, Appellate Court of Illinois, First District.

The Supreme Court today DENIED the petition for leave to appeal in the above entitled cause.

The mandate of this Court will issue to the Appellate Court on October 28, 1999.

No signature(s)

APPENDIX D

SUPREME COURT OF ILLINOIS

Supreme Court Building

Springfield, Illinois 62701

November 12, 1999

Ms. Jean Rosenbaum
1122 West Lunt Avenue
Chicago, IL 60626

COPY

In re: Kurt Rosenbaum, respondent, v. Jean Rosenbaum, petitioner.
No. 87722

Today the following order was entered in the captioned case:
Motion by petitioner, pro se, for leave to file a motion for reconsideration of the order denying petition for leave to appeal as a matter of right, or in the alternative, petition for leave to appeal. Motion Denied.

Very truly yours,
"s/Juleann Hornyak"
Clerk of the Supreme Court

cc Edward A. Berman

APPENDIX E

IN THE APPELLATE COURT OF ILLINOIS

FIRST JUDICIAL DISTRICT

In re MARRIAGE OF	)	
	)	COPY
KURT ROSENBAUM,	)	
	)	
Petitioner-Appellee,	)	
	)	
and	)	No. 1-98-2171
	)	
JEAN ROSENBAUM,	)	ORDER ENTERED
	)	
Respondent-Appellant.	)	May 28, 1999.

ORDER

Upon consideration of Respondent-Appellant's petition for rehearing;

IT IS HEREBY ORDERED that said petition for rehearing be and the same is hereby denied.

"s/J. Hartman"

"s/P.J. Hourhane"

"s/J. Theis"

APPENDIX F

IN THE APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

IN re THE MARRIAGE OF	)	
	)	COPY
KURT ROSENBAUM,	)	
	)	
Petitioner,	)	
	)	
Counter-Defendant-Appellee,	)	
	)	
and	)	No. 1-98-2171
	)	
JEAN ROSENBAUM, Respondent,	)	ORDER ENTERED
	)	
Counter- Plaintiff,	)	June 29, 1999.
	)	
Appellant, acting Pro Se.	)	

ORDER

This cause coming on to be heard this day on the MOTION FOR RECONSIDERATION OF ORDER DENYING APPELLANT'S PETITION FOR HEARING: THIS IS BECAUSE OF NEWLY LOCATED ADDITIONAL EVIDENCE, and the Court having read argument and been advised in the premises;

IT IS HEREBY ORDERED:

The MOTION FOR RECONSIDERATION OF ORDER DENYING APPELLANT'S PETITION FOR REHEARING; THIS IS BECAUSE OF NEWLY LOCATED ADDITIONAL EVIDENCE is

Allowed_____ Denied___X_____

"s/J. Hartman"

"s/J. Hourihane"

APPENDIX G

PERTINENT EXCERPTS from

JUDGEMENT OF DISSOLUTION OF MARRIAGE

IN THE CIRCUIT COURT OF COOK COUNTY,

ILLINOIS COUNTY DEPARTMENT,

DOMESTIC RELATIONS DIVISION

IN RE: THE MARRIAGE OF	)	
	)	C O P Y
KURT ROSENBAUM,	)	
	)	No. 81 D 22050
Petitioner,	)	
	)	Entered:
	)	
vs.	)	December 16, 1983
	)	
JEAN ROSENBAUM,	)	Judge RYAN
	)	
Respondent.	)	

JUDGEMENT OF DISSOLUTION OF MARRIAGE.

THIS CAUSE having been assigned for trial and having come on to be heard as a contested matter on the grounds for dissolution of the parties' marriage as alleged by KURT ROSENBAUM, petitioner, in his Petition for Dissolution of Marriage filed herein, and upon the response thereto of the respondent, JEAN ROSENBAUM, on all property rights arising out of this marriage, and the court having heard the testimony of the parties and their respective witnesses over a period of sixteen months and having considered the exhibits introduced in evidence and the arguments of petitioner's counsel and of the respondent, pro se, and the court now being

otherwise fully advised in the premises, FINDS AS FOLLOWS:

(Pars. 1-4 omitted)

5. That the parties ceased cohabitating together as husband and wife in the Fall of 1965, and have not cohabitated as husband and wife since that date to the present time; the parties have been living separate and apart from one another since that time, without fault or provocation on the part of the petitioner.

6. The petitioner, KURT ROSENBAUM, has proved from the testimony of the parties, testimony of witnesses, and the demeanor and conduct of the respondent, by a reponderance of the evidence that respondent, JEAN ROSENBAUM, has been guilty of extreme and repeated mental cruelty toward the petitioner without any reasonable cause or provocation on petitioner's part.

FACTS AND BACKGROUND

1. At the time of the separation of the parties in October, 1965, the parties had acquired assets through their joint efforts valued at approximately $35,000, exclusive of the marital home, which was later sold and divided between the parties, pursuant to court order. (see infra) Some of these assets were jointly held, such as the stock interest in the Keystone Funds, still retained in the joint names of the parties, while other assets were later dissipated and expended by the parties during their separation eighteen years ago for living expenses. At the time of the separation, the financial interest and equity of the petitioner in the 53rd Woodlawn-Kimbark Shopping Center, Inc. was approximately $3,000.00 since the equity of the parties was then encumbered by substantial borrowings.

(Pars. 2-4 omitted).

5. The facts contained in the four opinions of the Illinois Appellate Court, First District, ROSENBAUM v. ROSENBAUM, 38 Ill. App. 3d 1, 349 N.E. 2d 73 (1976) 65 Ill App. 3d 228, 382 N.E. 2d 270 (1978), 94 Ill. App. 3d 352 (1981), Order Disposing of Appeal Under Supreme Court Rule 23, No. 82-1790, December 29, 1982, and those presented here at the trial of this cause confirm these findings and provide a factual background of which this court takes judicial notice. This cause is singularly unique and unprecedented because of the facts contained in those appeals, the over 18 year separation of the parties, respondent's pro se representation, the large amount of hours she has and does expend on this case, the number and nature of the contested issues, the constitutional arguments raised, and the myriad matters presented to the court, especially by respondent.

(Pars. 6-7 omitted).

8. Property owned by the children of the parties, or in which they are the beneficial owners, includes the following:

8.1 Talman Home Federal Savings & Loan Association, petitioner custodian for Jody Rosenbaum ($10,349.65) and for Jay Rosenbaum ($10,782.73).

8.2 American National Bank & Trust Company of Chicago, petitioner trustee for Jody Rosenbaum $22,337.38.

8.3 Bank of Commerce & Industry, petitioner Trustee for Jody, Richard and Jay Rosenbaum $11,114.00.

8.4 Calumet National Bank, petitioner as Trustee for Jay Rosenbaum, Richard Rosenbaum, and Jody Rosenbaum, Jan. 10, 1983 $30,000.00.

8.5 The Boatmen's National Bank of St. Louis, petitioner Trustee for Jay, Richard or Jody Rosenbaum, Feb. 18, 1983 $65,268.22.

8.6 Amalgamated Bank, parties are Trustees for children, $2,323.57.

9. Property of the petitioner acquired in the above described partition proceeding was approximately $30,000.00 and, together with interest earned thereon to-date at the Calumet National Bank and transferred to the Stein Roe and Farnham Bond Fund is at least $46,711.43, which is non-marital, having been previously distributed pursuant to order of court. (See Rosenbaum v. Rosenbaum, 65 Ill. App. 3d 228). Petitioner also inherited 892.34 British pounds on deposit at Britiannia Building Society in England valued at about $1,338.

10. Property acquired and owned by petitioner either in his own name or jointly with one or more of the children of the parties deemed "marital property" includes the following assets and evaluations, established by competent evidence before this court over the course of this lengthy proceeding, thus rendering the evaluations only approximations at given points of time:

10.1 Cooperative at 1200 East 53rd Street, Chicago, Illinois, $18,000.

10.2 Apartment 9F, co-op at 5532 S. South Shore Drive, Chicago, Illinois, $37,500.

10.3 NCR Corp., 11.11 shares common stock, value $1,375.

10.4 Bache Co. stock report, September 30, 1982, value $7,464.46.

10.5 University National Bank, checking account averaging $5,000 and $10,000 C. D. 5-26-81.

10.6 First Chicago T-Rate C.D.s, $15,014.17, 6/83, $13,216.

10.7 State of Israel Bond, face value $100, November, 1973.

10.8 Consolidated Unit Investment Trust and Accumulation Program March 15, 1983 $741.78.

10.9 Merrill Lynch Account June 24, 1983, $35,269.00, and bond due October, 1997, $5,161.11.

10.10 Boatmen's National Bank of St. Louis, checking account $870.57.

10.11 Boatmen's National Bank of St. Louis, C.D. for $10,000.

10.12 Continental Illinois National Bank, $25,000.

10.13 Hyde Park Bank, C.D. $10,000.

10.14 Allanson Associates, Ltd., $5,290.

10.15 Michigan Avenue National Bank C.D. Feb. 4, 1983, $16,200.00.

10.16 Account receivable from Richard Rosenbaum $11,000.

10.17 Exchange National Bank $140.

10.18 Office equipment and inventory of optometry practice $3,000.

10.19 Hyde Park Federal $941.

10.20 1979 Buick automobile $2,750.

10.21 Furniture, furnishings, appliances, paintings, clothing and personal effects $2,000.

10.22 Stein Roe & Farnham Bond Fund $50,443.

10.23 Rosenbaum Optometry practice – value minimal.

10.24 American Optometric Association Retirement Fund (gross value before income taxes payable on distribution $104,000) and First National Bank of Chicago IRA account ($2,432.) (Par. 16 infra).

10.25 Other property supposedly owned by petitioner has been alluded to in the trial of this cause but has not been established by competent evidence; the court finds from the evidence presented that those assets are inconsequential in view of petitioner's overall total accumulated asset picture and the conclusion, stated below, that he should retain most of these assets acquired and accumulated by him alone through his sole efforts and in spite of hindrance from respondent.

(Pars. 11-21 omitted).

22. From the above properties, that which is clearly non-marital includes the Talman Home Federal accounts held as custodian for two children (par.8.1). Other property held by petitioner as Trustee for children – American National, Bank of Commerce and Industry, Calumet National Bank, Boatmen's National Bank, and Amalgamated Bank (pars. 8.2, 8.3, 8.4, 8.5 and 8.6) is found to be marital for purposes of this judgement. However, assets from partition proceedings of about $46,711.48, which includes funds on deposit at Calumet National Bank and part of Stein Roe & Farnham account,

which are included in paragraphs 8.4 and 9 are non-marital and belong to petitioner, as do pension benefits co-mingled in petitioner's own accounts of about $20,000 from his European Pension (par. 16, supra) and the Britiannia Building Society account with balance of $892.34 British pounds.

23. Respondent has about $66,000 of non-marital property acquired by her either through inheritance or as a result of the prior division of the assets of the parties in the partition proceedings, and interest earned thereon. (par. 15 supra).

CONCLUSIONS OF LAW

1. Under Section 503 of the Illinois Marriage and Dissolution of Marriage Act (IMDMA), the court concludes that the property described in paragraphs 22 and 23, supra, is non-marital since it was acquired by gift, bequests, devise or descent under Section 503 (a)(1) or prior to marriage 503 (a)(3), or has been acquired by judgement, under 503 (a)(7).

(Par. 2 omitted).

3. Each party will retain all non-marital assets as his or her own property.

4. Those assets being held by petitioner as custodian for the children are deemed to be assets of the children and not of the petitioner. The court notes that of those assets held by the petitioner as trustee for the children, which includes part of the deposits at the Calumet National Bank and Stein Roe & Farnham Bond Fund totaling approximately $46,711.43, are non-marital assets, being the result of the judgement for partition, and the interest earned on those funds is likewise non-marital. (For purposes of division of property, all other assets held by petitioner as trustee for one or more of the children are found to be marital). Further, about $20,000 of

petitioner's assets are the accumulation of the German Pension Fund proceeds and are non-marital.

(Pars. 5-7 omitted.)

8. Petitioner shall make the respondent the irrevocable beneficiary of two of his life insurance policies, one with Mutual Benefit for $5,000, and the other with New England Life for $10,000, so that in the event of his death, respondent will have additional assets. Petitioner shall pay the premiums on these policies. It is noted that the petitioner's life expectancy at age 70 is substantially less than the respondent's at age 62.

(Pars. 9-11, and par. 12-A omitted.)

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

12-B. That petitioner, KURT ROSENBAUM, is hereby assigned and awarded the following as his separate, non-marital property having the approximate evaluations indicated, all of which property is in the name of petitioner solely or with one or more of the children of the parties, and is awarded all right, title and interest therein:

(1) The 1979 Buick automobile in his possession and control valued at $2,750.

(2) All of the household furniture, furnishings, appliances, fixtures and contents of the residence located at 5532 South Shore Drive, Chicago, Illinois.

(3) Shares in cooperative at 1200 East 53rd Street, Chicago, Illinois, $18,000.

(4) Apartment 9F, co-op at 5532 South Shore Drive, Chicago, Cook County, Illinois, $37,500.00.

(5) NCR Corp. 11.11 shares common stock, value $1,375.

(6) Bache Co. stock report September 30, 1982, value $7,464.46.

(7) University National Bank, checking account averaging $5,000 and $10,000 C.D. 5/26/81.

(8) First Chicago T-Rate C.D. $15,014.17, 6/83.

(9) State of Israel Bond, face value $100, November,1973.

(10) Consolidated Unit Investment Trust and Accumulation Program, March 15, 1983, $741.78.

(11) Merrill Lynch account June 24, 1983, $35,269.00 and bond due October, 1997 for $5,161.11.

(12) Boatmen's National Bank of St. Louis, checking account, $870.57.

(13) Boatmen's National Bank of St. Louis, C.D. for $10,000.

(14) Continental Illinois National Bank, $25,000.

(15) Hyde Park Bank, C.D. $10,000.

(16) Allanson Associates, Ltd., $5,290.

(17) Michigan Avenue National Bank, C.D. Feb. 4, 1983, $16,200.00.

(18) Account receivable from Richard Rosenbaum $11,000.

(19) Exchange National Bank, $140.

(20) Office equipment and inventory of optometry practice $3,000.

(21) Hyde Park Federal $941.

(22) Stein Roe & Farnham Bond Fund $50,443.

(23) Rosenbaum Optometry Practice – value or minimal.

(24) American National Bank & Trust Company of Chicago, petitioner Trustee for Jody Rosenbaum $22,337.38.

(25) Bank of Commerce & Industry, for Jody, Richard and Jay Rosenbaum $11,114.00.

(26) Calumet National Bank, petitioner, as Trustee for Jay Rosenbaum, Richard Rosenbaum, and Jody Rosenbaum, Jan. 10, 1983, $30,000.

(27) The Boatmen's National Bank of St. Louis, petitioner Trustee for Jay, Richard or Jody Rosenbaum, Feb. 18, 1983, $65,268.22.

(28) American Optometric Association Retirement Fund and First National Bank of Chicago IRA account.

(29) First National Bank of Chicago IRA account.

(30) Any other stocks, bonds, bank accounts, pensions, IRA account, or certificates of deposit in the name of petitioner and acquired after the separation of the parties.

(Pars. C, D, E, omitted.)

F. That petitioner shall maintain $10,000 and $5,000 insurance policies on his life, and he shall designate the respondent as irrevocable beneficiary and pay all premiums for these policies and exhibit proof of payment to respondent each year.

(Pars. G, H, I omitted).

(Par. J non-existent in Judgement.)

K. Each of the parties is hereby ordered to execute such deeds, assignments or other documents which may be necessary or required to effectively vest sole and exclusive title in any of the above property in the other party.

L. That any further right or claim by either party against the other for spousal maintenance and support be and the same are hereby barred, extinguished and forever terminated.

M. That this court retains continuing jurisdiction of the parties hereto and the subject matter hereof for purposes of enforcing the provisions of this Judgment.

ENTER

DATED:

"s/DANIEL RYAN"
JUDGE

NOTE: All underlining provided by JEAN.

EXCERPT from OPINION

Rosenbaum v. Rosenbaum

Appellate Court of Illinois,

First District (1976)

38 Ill. App. 3d 1, 13, 349 N. E. 2d 73

"In the case before us, and after an examination of the record, we are of the opinion that the evidence did not prove mental cruelty as that concept is used in our law of divorce. We are convinced that Dr. Rosenbaum did not prove, in fact, did not allege, lack of provocation. From his testimony, and this is the only evidence on the subject, he left his family without a valid reason. The institution of marriage would not exist in our society if every husband were free to decide for himself that preservation of his sanity, whatever that means, requires that he leave his wife and children.

"Moreover, there is no evidence in this case that Dr. Rosenbaum's health, physical or mental, was adversely affected by anything his wife did after he left the family home. To the contrary, he had led a comfortable, enjoyable and steadily improving life, in a style he has pursued to his satisfaction. He has continued in his chosen work. His income has progressively increased. His interest in matters vocational and avocational have not changed or diminished."

Justices:

GEORGE LEIGHTON, and

JOHN C. HAYES

APPENDIX I